

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

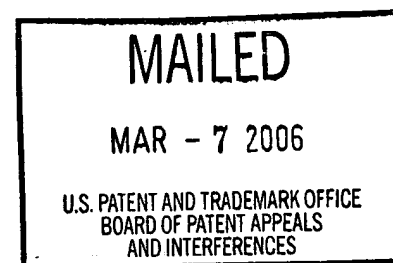
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Ex parte SHUYUAN ZHANG,  
CAPUCINE THWIN, ZHENG WU,  
TOOHYON CHO, and SHAWN GALLAGHER

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Application No. 09/203,078

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ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER

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This application was electronically received at the Board of Patent Appeals and Interferences on January 19, 2006. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below:

A review of the file indicates that on July 25, 2005, appellants filed an Appeal Brief under the rules set forth in 37 CFR § 41.37(c), which states in part:

(x) Related proceedings appendix. An appendix containing copies of decisions rendered by a court or the Board in any proceeding identified pursuant to paragraph (c)(1)(ii) of this section.

This section is missing from the Appeal Brief filed July 25, 2005.

Accordingly, the Appeal Brief filed on May 10, 2005 does not comply with the new rules under 37 CFR § 41.37(c). It is required that a supplemental Appeal Brief be submitted that is in compliance with 37 CFR § 41.37(c). For more information on the Board's new rules, please see the web page entitled "More Information on the Rules of Practice Before the BPAI," Final Rule at:

<http://www.uspto.gov/web/offices/dcom/bpai/fr2004/moreinfo.html>

Additionally, we were unable to locate a copy of the Huyghe et al. and Garnier et al. references relied on by the examiner on page 4 of the Examiner's Answer mailed October 19, 2005.

Finally, on November 23, 2005, appellants filed a Reply Brief. There is no indication on the record that this paper was considered by the examiner.

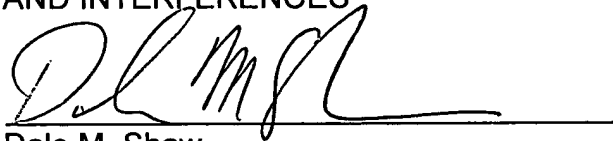
Accordingly, it is

ORDERED that the application is returned to the examiner to:

- (1) hold the Appeal Brief filed on July 25, 2005 defective;
- (2) notify appellants to file a supplemental Appeal Brief in compliance with 37 CFR § 41.37;
- (3) vacate the Examiner's Answer mailed July 26, 2005, and issue a revised Examiner's Answer in accordance with the new rules of September 14, 2004, if appropriate;
- (4) have a complete copy of the substitute Appeal Brief and any subsequent Examiner's Answer scanned into the record;
- (5) locate the missing Huyghe et al. and Garnier et al. references;

- (6) have a complete copy of the Huyghe et al. and Garnier et al. references scanned into the IFW file;
- (7) consider the Reply Brief filed December 27, 2005;
- (8) provide written notification to appellants of said consideration;
- (9) have a complete copy of said consideration scanned into the record; and
- (10) for such action as may be appropriate.

BOARD OF PATENT APPEALS  
AND INTERFERENCES

A handwritten signature in black ink, appearing to read 'D. M. Shaw', is written over a horizontal line.

Dale M. Shaw  
Program and Resource Administrator  
(571) 272-9797

Fulbright & Jarwoski  
600 Congress Avenue, Suite 2400  
Austin, TX 78701

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